

## Summary

### Air Management Study Group Meeting

Wednesday, February 26, 2014

9:00 am

Gathering Waters/Glacier's Edge Conference Room

DNR South Central Region Service Center, 3911 Fish Hatchery Rd, Fitchburg, WI

## Attendees

Gilberto Alvarez, EPA	David Molzahn, WPSC
Marc Bentley, BGA	Andrea Morgan, EPA
Anne Bogar, DNR	Kim Novak, WRMCA
Eric Bott, WMC*	Todd Palmer, Michael Best*
John Budzinski, DNR	Maria Powell, Midwest Env. Justice Org.
Anne Chacon, member of the public	David Seitz, TRC Environmental Corp
Tyson Cook, Clean Wisconsin*	Andrea Simon, Trinity Consultants
Kendra Fisher, DNR	Bart Sponseller, DNR
Arthur Harrington, Godfrey & Kahn*	Kathleen Standen, We Energies
Kristin Hart, DNR	Andrew Stewart, DNR
Tracey Holloway, UW-Madison*	Scott Suder, Wisconsin Paper Council*
Jeff Jaeckels, MGE*	Robert Thiboldeaux, DHS
Mitch Lagerstrom, WPSC	Karen Walsh, DNR
Scott Manley, WMC*	Tara Wetzel, WTBA*
Mitch Mariotti, WRMCA/VCNA Prairie, Inc.	

\* Air Management Study Group (AMSG) members

## Action Items

### Air Permit Streamlining

As a follow-up to the meeting, the Air Program developed next steps for sharing and reviewing draft rule language:

- **Tuesday, March 18:** Target date for the Air Program to send near-final rule language and cover sheets to AMSG and workgroup members for review. Initial comments would be due **Monday, March 31** (though the program would continue to accept feedback after March 31).
- **Friday, March 21:** Workgroup meeting to discuss rule language: **1-3 pm** in Room 713, State Natural Resources Building (GEF 2), 101 S. Webster St., Madison, WI.
- **Friday, April 4:** Follow-up workgroup meeting: **1-3 pm** in Room 713, State Natural Resources Building (GEF 2), 101 S. Webster St., Madison, WI.

If you have any questions about these next steps, please contact Kristin Hart at [kristin.hart@wisconsin.gov](mailto:kristin.hart@wisconsin.gov) or (608) 266-6876.

## **Meeting Summary**

### **Opening remarks and agenda review**

Bart Sponseller, Bureau Director

Sponseller opened the meeting and reviewed the agenda. Regarding the permit streamlining item, he thanked the study group members and additional people that have been participating in the workgroups over the last couple of months.

He also discussed the following topics:

#### Air Program involvement in federal policy

Sponseller talked about the DNR Air Program's role in federal policy development. Specifically, he stated that the Air Program reviews relevant federal proposed rules and guidance, and in recent years has commented on most of them. Part of the review and comment process includes asking for input from stakeholders. Because the DNR implements federal programs, the agency wants to make sure these programs are workable. As part of the effort to collect stakeholder input, the Air Program will continue to request feedback from the study group as federal rules and guidance are proposed.

Most of the review and comment work is done by staff in the Air Program's Regional Pollutants and Mobile Sources Section (the section chief is David Bizot, who has just started the position and will be introduced at the next study group meeting). Some of the work is also done by the Air Permits section (whose section chief is Kristin Hart).

#### Comments on GHG NSPS

Sponseller remarked that the Air Program has been developing comments on EPA's proposed greenhouse gas (GHG) New Source Performance Standards for power plants, which were developed under Section 111(b) of the Clean Air Act. The comments are due to EPA on March 10, 2014 [now extended to May 9, 2014]. The Air Program reached out to stakeholders in January and received some limited feedback. Sponseller asked study group members to contact the program soon if they would like to provide additional input.

Sponseller added that in mid-December, the Air Program submitted comments in response to EPA's pre-proposal request for feedback regarding GHG standards for existing power plants (to be developed under Section 111(d) of the Clean Air Act). The Air Program received considerable external and in-house feedback, and followed up in January with the external stakeholders.

Sponseller noted that the Air Program's main concern with the proposed standards is that they require carbon capture and sequestration. Wisconsin does not have the appropriate geological formations for sequestration (along with 13 other states). This concern has been the primary focus of the program's comments.

Regarding the development of GHG rules for existing sources, Jaekels remarked that there has been a lot of nationwide discussions and information gathering. He asked whether Sponseller has a sense of the next steps for Wisconsin. Sponseller responded that DNR anticipates that EPA will propose the rule June 1, with

a 60- or 90-day comment period. The Air Program will reach out to stakeholders and will likely submit comments. The key staff members responsible are Tom Karman, Jon Loftus, and Angie Dickens. Alvarez noted that a recent news item stated that EPA is struggling to meet the June 1 deadline.

#### Proposed PM<sub>2.5</sub> redesignation

Sponseller stated that on February 18, EPA proposed redesignating Milwaukee, Racine, and Waukesha counties as attaining the 2006 PM<sub>2.5</sub> standard. EPA is taking comments until Thursday, March 20. If the proposal is finalized, sources in these counties will no longer be subject to the nonattainment New Source Review (NSR) program for construction and major modifications. Instead, they will be subject to the Prevention of Significant Deterioration (PSD) program required in attainment areas.

DNR submitted the redesignation request in 2012. PM<sub>2.5</sub> concentrations have fallen significantly in these counties (the highest recent draft design value was 27 µg/m<sup>3</sup>, 23 percent below the standard). Emissions have decreased due to a number of actions taken in Wisconsin and other states.

### **Administrative items**

Anne Bogar, AMSG coordinator

### **Updates & announcements**

#### **Air Program updates**

Anne Bogar, AMSG coordinator; Andy Stewart, Deputy Bureau Director

Bogar and Stewart provided updates on the following topics:

#### Sand mine air monitoring webpage

Bogar showed attendees the Air Program's new silica (frac) sand mining page, which has been added to the DNR's mines, pits, and quarries website (<http://dnr.wi.gov/topic/mines/silica.html>). The page presents data from permitted mines that are required to monitor particulate matter concentrations. Companies collect the data and provide it to the department.

Bogar added that the page provides two ways to access data that in the past could only be accessed through an open records request. Viewers can click on a specific mine on the map to get a pdf chart of data, or download an Excel spreadsheet. The webpage will be updated quarterly with the most recent data available (it typically takes 60-90 days for the department to receive the data).

Holloway asked whether it is possible to access the data from the DNR's data webpage, noting that would be useful. Sponseller responded that he thinks the department links to the data page from the sand mine page, but not the other way around.

Wetzel asked whether the webpage plots provide PM<sub>10</sub> data as a comparison. Bogar responded that PM<sub>10</sub> data is presented on the monitoring webpage. Sponseller added that it was an intentional decision not to plot the data together, because one set of data is collected by DNR, while the other is collected by facilities. The Air Program could consider making a separate comparison, but it did not want webpage viewers confusing the two different monitoring networks. Holloway commented that combining PM<sub>10</sub> and monitoring data would be helpful. The public wants that information and it is hard to refer to multiple sources.

Manley asked how many other industrial sources besides sand mines are required to have site-specific PM<sub>10</sub> monitors. Sponseller responded that the Air Program could look into it but that they do have a handful of sources with TSP monitors up by Lake Superior. Some of these monitors are required, and some help facilities address information requests from, and concerns of, the public.

Hart noted that s. NR 415.075 includes a monitoring requirement for industrial sand mines. Wetzel added that there is also a provision allowing for a variance from monitoring requirements. Stewart commented that facilities agreed to monitor PM<sub>10</sub> instead of general PM, and that the DNR has not required anyone to monitor PM<sub>4</sub> or PM<sub>2.5</sub>. Wetzel responded that nine entities are monitoring PM<sub>4</sub>. Sponseller stated that the DNR is only aware of one entity monitoring PM<sub>4</sub>. Stewart said that the procedures for requesting a variance are available to facilities. More procedures will be put in writing, and the Air Program will probably be releasing them soon.

Wetzel asked whether the DNR thinks that PM<sub>10</sub> data best represents PM concentrations. Stewart responded that using PM<sub>10</sub> data makes the most sense, in terms of the public's concern. The charts on the sand mine data webpage show how monitored PM<sub>10</sub> concentrations compare to the standard.

Thiboldeaux noted that there is a lot of interest in PM<sub>4</sub>, and that one of the frequent questions he receives is why PM<sub>10</sub> is monitored and not PM<sub>4</sub>. Wetzel responded that a private year-long study addresses PM<sub>4</sub>, and her organization has been reaching out and sharing the data with relevant counties. Their intention is to make the report public, though whether individual facility data will be presented is a facility decision.

Manley stated that this issue presents an interesting policy question. He realizes there has been a lot of emotion around sand mining because there has been a lot of growth in the industry. He remarked that it is his opinion that the public health concerns are irrational. The charts comparing the monitoring levels to EPA's health-based standard help companies combat the public's fear and show that concentrations are below the standard.

Cook remarked that if the goal is to assuage public concerns, he thinks the public is well-informed and PM<sub>4</sub> data would speak more to the concern. He supports making that data available.

#### Landfill gas guidance

Stewart stated that the Air Program spent a number of years developing presumptive control requirements for formaldehyde engine emissions at landfills that meet the requirements of ch. NR 445, the state Hazardous Air Pollutants (HAPs) Rule.

In collaboration with stakeholders, the Air Program has developed presumptive Best Available Control Technology (BACT) for formaldehyde. The presumptive BACT could be approved quickly by the department if applicants request to use it. It would prevent applicants and Air Program staff from repeating the same review process every time a landfill expands or replaces/significantly modifies engines. He clarified that applicants can do their own BACT analysis if they prefer, but using the presumptive BACT reduces applicants' workload.

Stewart noted that the draft guidance for the presumptive BACT is complete. The Air Program is preparing to make the draft available on the website for the 21-day public comment period. Once that process is complete, the program will consider comments and then finalize the guidance. Individual applicants can use the guidance now as the basis of the analysis they would submit in a permit application. Stewart commented that the Air Program thinks it is a very good product and a good success story, similar to the types of products they hope to achieve with the study group.

This is the first such guidance developed since a similar effort was completed for medical waste incinerators in the early 90s.

Harrington asked whether digesters face similar control requirements and whether the guidance would be a good template for municipal waste energy projects. Stewart responded that the information and analysis from the guidance could be used, but not as presumptive BACT. He added that if there was interest, the Air Program could develop presumptive BACT for other areas.

Jaekels asked whether the guidance addresses federal RICE rules. Stewart responded that the state requirements addressed by the guidance apply where the RICE rules do not. The presumptive BACT consists of good practice and maintenance. It uses a lot of elements of the RICE NESHAP, because the Air Program did not want to create duplicate or conflicting requirements.

#### Air quality maps

Bogar described a collaborative effort between the Air Program and Tracey Holloway to develop web-based maps that show air quality successes to the public. The Air Program will be obtaining emissions data from LADCO, and hopes to have a draft product to share with the study group in May. Bogar added that she may get in touch with individual members to review sample material before then.

Manley asked why the maps would not use data from the emissions inventory. Bogar responded that the project requires data that is in a format that is more consistent over time. Holloway noted that 1990 and 2011 data from the emissions inventory should not be compared because the data collection methods differ. Sponseller added that EPA data formatting requirements have changed over time. 2002 is the first year the Air Program prepared a full statewide emissions inventory.

Palmer asked whether the maps will focus only on stationary source emissions. Bogar responded that the goal is to show all sectors. Holloway noted that her research uses LADCO data, and she thinks it would be nice to include categories such as biogenic emissions. She would like the maps to show trends over time, over space, and by sector.

Jaekels commented that if air quality trends could be presented as well, that would be helpful. Holloway responded that they would like to start with emissions data and get a polished product before adding layers. Sponseller agreed that ideally they would like to present a full picture of air data, and that will take time and effort.

#### **Member updates** (as relevant)

Palmer noted that there is a case pending in the 7<sup>th</sup> circuit of the U.S. Court of Appeals that addresses increment analysis in Prevention of Significant Deterioration (PSD) permitting. The case addresses a Sierra Club challenge to a permit issued to Georgia Pacific, and could have a profound impact on how PSD permits are issued. He anticipates there will be a decision any day, and probably before the study group meets again.

## **Air permit streamlining**

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart reported on workgroup progress on the permit streamlining initiative. The presentation slides are available on the AMSG website at <http://dnr.wi.gov/topic/AirQuality/AMStudyGroup.html>.

Regarding the work schedule on Slide 5, Hart commented that developing the natural minor exemption is complicated and will take time. However, based on feedback from workgroup members, the Air Program wants to keep it in the fast track portion of the rule. The program is aiming to prepare rule language for the August 12-13 Natural Resources Board meeting. This means the rule language will need to be in board order format by April 14, giving the Air Program and workgroup all of March to continue working on it.

Hart said that she would like to hold two or three workgroup meetings in March, and will probably continue to schedule them on Friday afternoons.

Slide 8 refers to cover sheets that are being drafted for each topic that will be addressed in the fast track portion of the streamlining initiative. The cover sheets explain the objectives and expected outcomes of proposed rule revisions. Hart reviewed cover sheets for the following topics [draft cover sheets will be posted after internal review has been completed]:

- Allowing DNR to withdraw construction permit applications when no information is received
- Proposal for a General Construction Permit, changes to the definition of “commence construction”, and changes to criteria for waivers allowing pre-permit construction activities
- Changes to minor revision language to allow construction permits to be incorporated into operation permits as minor revisions
- Development of a natural minor exemption from the requirement to obtain an operation permit
- Ch. NR 407 clean-up (removing dated materials and editing language for clarity)
- Changes to the Registration Permit Rule to ensure issuance at emissions thresholds other than 25 percent of the major source threshold

The group’s discussion of Hart’s presentation is summarized below:

### Definition of “commence construction”

Manley and Harrington cautioned that it is important to note inconsistencies between the existing federal and state definitions, including references to entering into contracts and site clearance. Palmer also pointed out that there is a difference between definitions of “commence construction” and “begin construction” in ch. NR 405. The terms serve different purposes, but are often confused. Stewart added that under NR 405, “commence construction” includes entering into contracts while “begin construction” does not.

Hart commented that the Air Program was advised by the study group not to simply adopt the federal definition, because in some cases the federal definition is more restrictive than the state definition, and in other cases less restrictive. Instead, the program is trying to craft a definition that allows certain activities without waivers but does not cause environmental problems.

### Construction application withdrawal

Wetzel asked what happens to an application that was submitted but never assigned to a permit staff member or otherwise never made it into the DNR work queue. She expressed concerns about applications being dropped when the source is still expecting action, in particular because her organization has

submitted applications that were not acted on by DNR for extended periods of time. Hart clarified that the DNR would only withdraw applications after requesting information from the facility and never receiving a response.

#### Minor revision changes

Hart clarified that this topic only addresses incorporating a construction permit into an operation permit as a minor revision. Minor revisions will be addressed more broadly in the longer-term set of rule revisions.

#### ROP Rule changes

Hart noted that the Air Program received comments that no rule changes need to be made, because the existing rule allows for a 50% ROP as written. They also received comments that references to the 25% ROP should be changed to 50%. She stated that the Air Program will have to work through these issues internally.

#### Natural minor exemption

Hart confirmed that the statutory need to address this issue only applies to operation permits and not construction permits. She noted that she thinks the legislature was trying to address the State Operation Permit (SOP) backlog.

Harrington asked if there is a way to avoid SIP review of the exemption. Hart responded that since the changes do not require reopening ch. NR 406, SIP revision would not be necessary (ch. NR 407 is approved in a different way than the rest of the code).

#### Next steps

Cook asked when draft rule language from the workgroups will be presented to study group members. He does not want too much work to be finalized before the study group has an opportunity to review the material. He pointed out that he has an interest in all the topic areas but is not able to devote time to four workgroups. Palmer added that he would like to see drafts that can be sent to clients and relevant associations for comment. He emphasized the need for time to collect feedback.

Hart responded that rule language will not be posted until the Air Program has completed legal and other internal review. She would like the draft cover sheets and rule language to be available for viewing in a couple of weeks, and values opportunities to get feedback from sources. Sponseller remarked that review time for the study group will be included in the work schedule, and that they will do their best to complete internal review in two weeks. Topics will probably be prioritized and material sent out one topic at a time.

Hart also noted that the Air Program is setting up a webpage for the permit streamlining initiative, and will work on procedures for when and how material can be posted and replaced/updated.